

WHEREAS, Section 7.351 of the Texas Water Code authorizes a local government to institute a civil suit under Subchapter D, "Civil Penalties," Sections 7.101 *et seq.* of the Texas Water Code, in the same manner as the Texas Commission on Environmental Quality ("TCEQ") in a district court by the local government's own attorney for the injunctive relief or civil penalty, or both, as authorized by Chapter 7 of the Texas Water Code against a person who committed, is committing, or is threatening to commit a violation of Chapter 16, 26, or 28 of the Texas Water Code; Chapter 361, 371, 372, or 382 of the Texas Health and Safety Code; a provision of Chapter 366 or 401 of the Texas Health and Safety Code under the TCEQ's jurisdiction; Chapter 1903 of the Texas Occupations Code; or a rule adopted or an order or a permit issued under those chapters or provisions; and

WHEREAS, Section 7.352 of the Texas Water Code does not allow a local government to exercise the enforcement power authorized by Subchapter H, "Suit by Others," of Chapter 7 of the Texas Water Code for a violation of Chapter 26, "Water Quality Control," of the Texas Water Code or Chapter 382, "Clean Air Act," of the Texas Health and Safety Code unless the local government's governing body adopts a resolution authorizing the exercise of the power; and

WHEREAS, Chapter 26 of the Texas Water Code contains laws designed to maintain and improve water quality, including laws governing waste discharges; and

WHEREAS, Chapter 382 of the Texas Health and Safety Code contains laws designed to maintain and improve air quality, including laws governing emissions of air contaminants; and

WHEREAS, the City Council finds it is in the public interest to adopt a resolution authorizing the City of Dallas to exercise the enforcement power authorized by Sections 7.351 and 7.352 of the Texas Water Code for violations of Chapter 26 of the Texas Water Code and Chapter 382 of the Texas Health and Safety Code; and

WHEREAS, the City Council intends that the City be empowered to exercise all the enforcement power authorized by Sections 7.351 and 7.352 of the Texas Water Code in addition to the City's enforcement powers under the Texas Constitution, federal and state statutes and regulations, the city charter, ordinances, and the common law to protect the environment; and

WHEREAS, the City Council intends that this authorization survive any name change of the TCEQ or the reassignment or modification of any powers to the TCEQ as well as any amendment or recodification of the Texas Water Code that does not expressly eliminate the power authorized by this resolution; and

March 28, 2012

WHEREAS, if the Texas Water Code is thereafter amended to limit or modify the power authorized by Sections 7.351 and 7.352 of the Texas Water Code, the City Council intends that the City continue to be empowered to exercise any and all enforcement power that such statutory amendment or limitation may permit; **Now, Therefore,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City of Dallas is hereby authorized to exercise all powers authorized by Sections 7.351 and 7.352 of the Texas Water Code, as amended.

Section 2. That these enforcement powers shall authorize actions respecting past, existing, and future violations, is in addition to the City's other enforcement powers to protect the environment; and shall survive any name change of the TCEQ or the reassignment or modification of any powers to the TCEQ.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

